

⁴ *Thomas v. Arn*, 474 U.S. 140, 149 (1985); L.R. 72.3(b).

Accordingly, the Court **ADOPTS** Magistrate Judge Ruiz's Report and Recommendation and incorporates it fully herein by reference. The Court **DISMISSES AS MOOT** Petitioner's habeas petition. Furthermore, no basis exists upon which to issue a certificate of appealability.⁵

IT IS SO ORDERED.

Dated: May 23, 2018

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁵ [28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).